

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maura Roche	Team: Squad #10	CCRB Case #: 202003978	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 8:15 PM, Tuesday, 06/02/2020 10:00 PM	Location of Incident: West Side Highway at 50 West Street; Brooklyn Central Booking	Precinct: 01	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 06/06/2020 9:26 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 06/06/2020 9:26 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Patrick Connolly	12224	930038	SRG 3
3. POM Michael Pascale	30095	956153	SRG 3
4. POM Jonathan Ku	20058	951890	SRG 4
5. POM Adam Muniz	31861	955234	SRG 1
6. POM Eduardo Mejia	10215	960929	SRG 1
7. DI James Mcgeown	00000	889041	SRG
8. POF Crystal Washington	20523	968187	040 PCT
9. DI Ronald Zedalis	00000	927702	C S O
10. INS Gerard Dowling	00000	915640	SRG
11. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Irene Bonicadelgado	04559	938343	VED ZN1
2. DT3 Eric Yeung	00699	941257	VED ZN2
3. POM Harvey Rabel	18646	937321	SRG 3
4. POM Roberto Feliciano	19830	958578	044 PCT
5. POM Vicente Cardenas	00840	959532	SRG 4
6. POM Franz Zabala	08624	939730	SRG 1
7. LCD William Buchanan	00000	924993	GVSD Z1
8. SGT Daniel Nicoletti	05379	942271	GVSD Z1

<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>
9. LCD Michael Jennings	00000	919213	VED ZN2
10. SGT Chet Wakie	05486	939670	T.A.R.U
11. DT3 Mike Civil	02114	935092	GVSD Z1
12. DT3 Carlos Velez	05575	919817	GVSD Z1
13. DT3 Christophe Vickery	07174	945079	GVSD Z1
14. DT3 Anthony Fernandez	2026	950401	VED ZN2
15. SGT Richard Guerrieri	01567	948039	SRG 5
16. POM Jose Colon	20734	931603	SRG 2
17. POF Jhunaisy Hidalgo	12852	951820	043 PCT
18. CPT Julio Delgado	00000	918927	SRG 2
19. SGT David Lamarre	03547	947929	SRG 3
20. LT Richard Mack	00000	916095	SRG 4
21. CPT Ronald Ramos	00000	935562	SRG 4
22. SGT Joseph Carlsen	01940	951586	SRG 1
23. POM David Cardona	16573	960324	SRG 4
24. LT Christophe Schmidt	00000	907284	SRG 1
25. SGT Elliot Zinstein	05494	947634	TRN BUR
26. SGT Randy Figuereo	04844	941750	032 PCT
27. POM Ray Soriano	27412	956275	042 PCT
28. LT Peter Sotiriou	00000	924515	SRG 3
29. INS Michele Irizarry	00000	915113	PBMS
30. POF Lilian Lozada	20533	962917	041 PCT
31. POM Robert Harrington	30008	965171	040 PCT
32. SGT Joel Polanco	04089	953261	040 PCT
33. DT3 Jason Ragoo	07277	939268	GVSD Z1
34. DC John Dadamo	00000	913627	SRG
35. DT3 John Mchugh	00581	948163	GVSD Z1
36. DT2 William Warren	02757	933467	GVSD Z1
37. DT3 Michael Harkins	07821	955974	GVSD Z1
38. DT2 Jeremy Demarco	01992	930033	GVSD Z1

<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>
A. An officer	Force: In front of 50 West Street in Manhattan, an officer struck § 87(2)(b) § 87(2)(b) with a baton.	
B. Officers	Force: In front of 50 West Street in Manhattan, officers used physical force against § 87(2)(b) § 87(2)(b)	
C.INS Gerard Dowling	Force: In front of 50 West Street in Manhattan, Inspector Gerard Dowling used physical force against § 87(2)(b) § 87(2)(b)	
D.INS Gerard Dowling	Force: In front of 50 West Street in Manhattan, Inspector Gerard Dowling used a chokehold against § 87(2)(b) § 87(2)(b)	
E.INS Gerard Dowling	Force: In front of 50 West Street in Manhattan, Inspector Gerard Dowling restricted § 87(2)(b) § 87(2)(b)'s breathing.	
F.POM Jonathan Ku	Force: In front of 50 West Street in Manhattan, Police Officer Jonathan Ku struck individuals with a baton.	

Officer(s)	Allegation	Investigator Recommendation
G.POM Jonathan Ku	Force: In front of 50 West Street in Manhattan, Police Officer Jonathan Ku struck § 87(2)(b) with a baton.	
H.POF Crystal Washington	Force: In front of 50 West Street in Manhattan, Police Officer Crystal Washington struck individuals with a baton.	
I.POF Crystal Washington	Force: In front of 50 West Street in Manhattan, Police Officer Crystal Washington struck § 87(2)(b) with a baton.	
J. An officer	Force: In front of 50 West Street in Manhattan, an officer used physical force against § 87(2)(b)	
K. An officer	Force: In front of 50 West Street in Manhattan, an officer struck § 87(2)(b) with a baton.	
L. An officer	Force: In front of 50 West Street in Manhattan, an officer struck § 87(2)(b) § 87(2)(b) with a baton.	
M.DI James McGeown	Force: In front of 50 West Street in Manhattan, Deputy Inspector James McGeown used physical force against § 87(2)(b)	
N.POM Michael Pascale	Force: In front of 50 West Street in Manhattan, Police Officer Michael Pascale used physical force against § 87(2)(b)	
O. An officer	Discourtesy: In front of 50 West Street in Manhattan, an officer spoke discourteously to an individual.	
P. An officer	Off. Language: In front of 50 West Street in Manhattan, an officer made remarks to an individual based upon gender.	
Q.DI Ronald Zedalis	Force: In front of 50 West Street in Manhattan, Deputy Inspector Ronald Zedalis used physical force against § 87(2)(b)	
R.POM Adam Muniz	Force: In front of 50 West Street in Manhattan, Police Officer Adam Muniz used physical force against § 87(2)(b)	
S.POM Eduardo Mejia	Force: In front of 50 West Street in Manhattan, Police Officer Eduardo Mejia used physical force against an individual.	
T. Officers	Force: In front of 50 West Street in Manhattan, officers used physical force against § 87(2)(b)	
U.POM Jonathan Ku	Force: In front of 50 West Street in Manhattan, Police Officer Jonathan Ku used physical force against § 87(2)(b)	
V. An officer	Force: In front of 50 West Street in Manhattan, an officer used physical force against § 87(2)(b)	
W. An officer	Force: In front of 50 West Street in Manhattan, an officer struck § 87(2)(b) with a baton.	
X. An officer	Discourtesy: In front of 50 West Street in Manhattan, an officer spoke discourteously to individuals.	
Y.POM Patrick Connolly	Discourtesy: At Brooklyn Central Booking, Police Officer Patrick Connolly acted discourteously toward § 87(2)(b)	

### Case Summary

On June 6, 2020, § 87(2)(b) filed this complaint on behalf of himself, § 87(2)(b) and § 87(2)(b) with the CCRB online. On June 7, 2020, § 87(2)(b) filed a duplicate complaint with the CCRB online. CCRB cases 202106125 and 202106129 were spun-off from this case for closing purposes. This case was originally assigned to Investigator Jackie Manginelli and was reassigned to Supervising Investigator Maura Roche on June 11, 2020.

On June 2, 2020, § 87(2)(b) and § 87(2)(b) were all taking part as a group in a protest in honor of Black Trans Lives that was progressing southbound on West Street toward Battery Place in Manhattan. Shortly after 8 p.m., officers began walking northbound on West Street toward the protestors giving instructions for people to disperse due to the curfew and arresting people who did not do so. § 87(2)(b) and § 87(2)(b) who had been in the middle of the crowd of protestors, linked arms and moved forward toward the officers to form a line of white individuals between the officers and the transgender protestors and protestors of color.

At approximately 8:15 pm., when § 87(2)(b) and § 87(2)(b) were in front of 50 West Street, a line of approximately five to 10 officers approached them. One of the officers allegedly lifted his baton and struck § 87(2)(b)'s left forearm (**Allegation A: Force – Nightstick as club (incl asp & baton)**, § 87(2)(g)). § 87(2)(b) who had been holding onto § 87(2)(b)'s arm with his left hand, released his grip, and approximately five officers, including Inspector Gerald Dowling of SRG (Inspector Dowling has since been promoted to Deputy Chief and transferred to IAB) grabbed § 87(2)(b) by the upper body and pulled him down to the ground (**Allegations B and C: Force – Physical Force**, § 87(2)(g)). Once § 87(2)(b) was on the ground in a seated position with his legs outstretched in front of him, Inspector Dowling allegedly wrapped his arm around § 87(2)(b)'s neck (**Allegation D: Force – Chokehold**, § 87(2)(g)) and leaned forward onto § 87(2)(b)'s back such that his chest was forced down toward his legs (**Allegation E: Force – Restricted Breathing**, § 87(2)(g)). Inspector Dowling and the other officers then placed § 87(2)(b) into Zip Ties (**subsumed under allegations B and C**).

At the same time, § 87(2)(b) and § 87(2)(b) continued to walk backward away from the officers. Other protestors, including § 87(2)(b) were in the same general vicinity walking backwards when officers, including PO Jonathan Ku of SRG 1, and PO Crystal Washington of the 40<sup>th</sup> Precinct, pushed § 87(2)(b) and other individuals back toward the sidewalk with their batons (**Allegations F, G, H, I, and K: Force – Nightstick as club (incl asp & baton)**, § 87(2)(g)). Another officer also pushed § 87(2)(b) back toward the sidewalk with their hands (**Allegation J: Force – Physical Force**, § 87(2)(g)).

As the group of protestors continued to walk backwards, Deputy Inspector McGeown of SRG approached § 87(2)(b) who was in the street. As he approached, an officer allegedly struck § 87(2)(b) in the head with their baton (**Allegation L: Force – Nightstick as club (incl asp & baton)**, § 87(2)(g)). Deputy Inspector McGeown then grabbed § 87(2)(b) from behind and took them to the ground (**Allegation M: Force – Physical Force**, § 87(2)(g)) at which time PO Michael Pascale of SRG 3 approached and assisted Deputy Inspector McGeown in placing § 87(2)(b) into flex-cuffs (**Allegation N: Force – Physical Force**, § 87(2)(g)).

While § 87(2)(b) was on the ground, they heard an officer allegedly say, “Get that bitch with the blue hair. She’s next.” (**Allegation O: Discourtesy – Word**, § 87(2)(g)). **Allegation P: Offensive Language – Gender**, § 87(2)(g).

Shortly after Deputy Inspector McGeown took § 87(2)(b) to the ground, Deputy Inspector Ronald Zedalis of the Chief of Special Operations Unit reached for § 87(2)(b) who was just behind § 87(2)(b) and took him to the ground (**Allegation Q: Force – Physical**

Force, § 87(2)(g) PO Adam Muniz and PO Eduardo Mejia, both of SRG 1, approached to assist. PO Muniz placed § 87(2)(b) into flex-cuffs (**Allegation R: Force – Physical Force**, § 87(2)(g) while PO Mejia pushed a female protestor who was approaching the officers away with his hand (**Allegation S: Force – Physical Force**, § 87(2)(g).

Once § 87(2)(b) was in flex-cuffs, two officers approached § 87(2)(b) who was still in the street walking backward. These officers pulled § 87(2)(b) down to the ground, (**Allegation T: Force – Physical Force**, § 87(2)(g) PO Ku approached and, once § 87(2)(b) was on the ground, placed him into flex-cuffs (**Allegation U: Force – Physical Force**, § 87(2)(g).

§ 87(2)(b) was on the sidewalk observing when two officers approached him. One of the officers told him to get out of the way, and when he did not immediately move, pushed him back toward the sidewalk (**Allegation V: Force – Physical Force**, § 87(2)(g) § 87(2)(b) turned away from the officers, and, almost immediately felt pressure in the middle of his back as if being pushed with a baton followed by a swift baton strike to his right back hip area (**Allegation W: Force – Nightstick as Club (incl asp & baton)**, § 87(2)(g).

After everyone had been placed into flex-cuffs, officers led them to the curb, where they sat while they waited for transportation to processing centers. As transportation vehicles started to arrive, § 87(2)(b) heard an officer yell, “Get your fucking bodies and put them on the truck now!” (**Allegation X: Discourtesy – Word**, § 87(2)(g).

On the same date, at approximately 10:00 p.m., at Brooklyn Central Booking, § 87(2)(b) asked PO Patrick Conolly of SRG 3 for some water. PO Connolly allegedly provided § 87(2)(b) with a cup of water with one drop of water in it. When § 87(2)(b) asked for more water, PO Connolly allegedly told § 87(2)(b) that they could not have any more water because he did not want to have to take them back to the bathroom (**Allegation Y: Discourtesy – Action**, § 87(2)(g).

§ 87(2)(b) (BR 01), § 87(2)(b) (BR 02 and BR 03), § 87(2)(b) (BR 04), § 87(2)(b) (BR 05), and § 87(2)(b) (BR 06) received summonses as a result of this incident.

Body worn camera footage was obtained from PO Jonathan Ku (BR 07 and BR 08), Lieutenant Christopher Schmidt of SRG 1 (BR 09 and BR 10), PO Vincente Cardenas of SRG 4 (BR 11 and BR 12), PO Franz Zabala of SRG 1 (BR 13 and BR 14), PO Connolly (BR 15, BR 16, BR 17, BR 18, BR 19, and BR 20), PO Pascale (BR 21 and BR 22), PO Muniz (BR 23 and BR 24), PO Harvey Rabel of SRG 3 (BR 25 and BR 26), PO Roberto Feliciano of the 44<sup>th</sup> Precinct (BR 27 and BR 28), PO Mejia (BR 29 and BR 30), PO Washington (BR 31 and BR 32), Sgt. Elliot Zinstein of the Training Bureau (BR 33 and BR 34), PO David Cardona of SRG 4 (BR 35 and BR 36), PO Jhunaissy Hidalgo of the 43<sup>rd</sup> Precinct (BR 37, BR 38, and BR 39), Lieutenant Peter Sotiriou of SRG 3 (BR 40 and BR 41), and Sgt. David Lamerre of SRG 3 (BR 42, BR 43, BR 44, and BR 45). Handheld NYPD footage was obtained from TARU (BR 46 and BR 47). Cell phone footage was obtained from § 87(2)(b) (BR 48 and BR 49) and social media (BR 50 and BR 51). Security footage was obtained from an apartment complex located at § 87(2)(b) BR 52, BR 53, BR 54, and BR 55). The relevant videos are discussed below. There was no other video of this incident.

This case was added to the sensitive case list on June 11, 2020, due to media coverage of the incident (BR 56 and BR 57).

### Findings and Recommendations

**Allegation (B) Force: In front of 50 West Street in Manhattan, officers used physical force against § 87(2)(b)**

**Allegation (C) Force: In front of 50 West Street in Manhattan, Inspector Gerard Dowling used physical force against § 87(2)(b)**

**Allegation (D) Force: In front of 50 West Street in Manhattan, Inspector Gerard Dowling used a chokehold against § 87(2)(b)**

**Allegation (E) Force: In front of 50 West Street in Manhattan, Inspector Gerard Dowling restricted § 87(2)(b)'s breathing.**

It was undisputed that § 87(2)(b) was out after the 8 p.m. curfew and that officers, including Inspector Gerard Dowling, pulled § 87(2)(b) down to the ground and took him into custody.

§ 87(2)(b) (BR 58) stated that he had been part of a peaceful protest with a large group of people, including § 87(2)(b) and § 87(2)(b) which had begun early in the afternoon at the Stonewall Inn in Manhattan. By 8 p.m., the protest, which comprised approximately 1000 people, had moved to the West Side Highway. People in the protest were aware of the 8 p.m. curfew, but they all collectively decided to remain out and walked southbound on West Street toward Battery Place, despite the possibility of arrest. Once the protestors reached Battery Place, § 87(2)(b) saw officers placing people under arrest, although he could not describe specific circumstances of any of these arrests. § 87(2)(b) could not recall if he had heard any instructions from officers to disperse prior to viewing the arrests.

As the officers began making arrests, most of the people in the protest turned around to run northbound away from the officers, leaving § 87(2)(b) and § 87(2)(b) closest to the officers. § 87(2)(b) heard someone yell, "White people to the front!" which he interpreted as a call for white protestors to approach the officers to create a barricade between the officers and the protestors of color. § 87(2)(b) stood still and linked arms with § 87(2)(b) who was linked similarly to § 87(2)(b) and § 87(2)(b) to create a "human shield" across the street with § 87(2)(b) on the far west side.

Approximately three officers in dark blue uniforms approached § 87(2)(b) and the people in the line while holding their batons horizontally across their bodies at chest level. As the officers walked toward them, § 87(2)(b) and the line of people walked backwards away from the officers. Another officer, identified by the investigation as Inspector Dowling, approached the three officers and instructed them to arrest § 87(2)(b) and all the people in the line. When none of the officers moved forward to arrest § 87(2)(b) Inspector Dowling said, "Fine, I'll just do it then."

Inspector Dowling approached § 87(2)(b) and, when they were face-to-face, took § 87(2)(b) by the shoulders, turned him around so that his front was toward § 87(2)(b)'s back, and pushed him down to the ground. § 87(2)(b) came to the ground in a sitting position with his buttocks on the ground and his legs outstretched in front of him and spread open in a "V" shape. Inspector Dowling pushed § 87(2)(b)'s back downward toward his legs so that § 87(2)(b) was in a "forward fold" yoga position with his head between his feet. While uncomfortable, § 87(2)(b) practices yoga, and this did not cause too much discomfort. Inspector Dowling pressed the side of his body and his legs against § 87(2)(b)'s back to keep him in this position for a few seconds, pulled § 87(2)(b)'s arms behind his back, and put flex-cuffs on § 87(2)(b)'s wrists. § 87(2)(b) estimated that he was in this position for approximately 45 seconds and stated that while he could not recall if he had difficulty breathing, he "probably" did, and that the position hurt.

Once in the flex-cuffs, Inspector Dowling left the immediate vicinity, and § 87(2)(b) did not see him again. § 87(2)(b) noted that the officer who processed his arrest and who was listed on his summons was not one of the officers who placed him into custody.

§ 87(2)(b)'s statement (BR 59 and BR 60) was generally consistent with that of § 87(2)(b) with the following exceptions noted. § 87(2)(b) was six to seven feet behind § 87(2)(b) when he saw officers pull him down to the ground. Because of the distance separating them, § 87(2)(b) did not have a clear view of how the officers did this. However, once § 87(2)(b) was on the ground, § 87(2)(b) saw an officer he could not describe with his knee on § 87(2)(b)'s back. § 87(2)(b) was not sure how long the officer kept his knee on § 87(2)(b)'s back because he was distracted by other officers approaching him.

§ 87(2)(b) (BR 61 and BR 62), § 87(2)(b) (BR 63 and BR 64), § 87(2)(b) (BR 65 and BR 66), and § 87(2)(b) (BR 67 and BR 68) all consistently stated that although they saw § 87(2)(b)

§ 87(2)(b) on the ground, they did not see the manner by which officers took him to the ground. § 87(2)(b) (BR 69) stated that he was already in custody when officers took § 87(2)(b) to the ground and that he did not witness officer take him into custody nor did he see him when he was on the ground. § 87(2)(b) did not provide a statement to the investigation.

Body-worn camera footage from PO Washington from 2:22 minutes until 2:42 minutes (BR 31 and BR 32) and PO Ku from 3:34 minutes until 4:33 minutes (BR 07 and BR 08), cell phone footage from § 87(2)(b) from 00:15 seconds until 00:50 seconds (BR 48 and BR 49), handheld TARU footage from 00:10 seconds until 00:24 seconds (BR 46 and BR 47), and security footage from 50 West Street from 48:52 minutes until 49:46 minutes (BR 54 and BR 55) capture portions of the incident.

In PO Washington's body-worn camera footage, beginning at 2:22 minutes, § 87(2)(b) is visible in the center right of the frame wearing black shorts, a black top, and a red facemask. § 87(2)(b) in in the center left of the frame wearing dark pants, and gray t-shirt, and a yellow, front-facing backpack. § 87(2)(b) is visible behind § 87(2)(b) wearing a black facemask and a baseball cap. § 87(2)(b) is holding hands with § 87(2)(b) as they walk backwards away from the officers. At 2:34 minutes, § 87(2)(b) is visible on the far-left side of the frame wearing green shorts, a dark tank top, and white sneakers with white tube socks. § 87(2)(b) is holding § 87(2)(b)'s right hand with his left hand. At 2:35 minutes, Inspector Dowling, who is outside of the frame, pulls § 87(2)(b) by his right arm away from § 87(2)(b). At 2:38 minutes, § 87(2)(b) pulls himself away from Inspector Dowling toward the east side of the street where § 87(2)(b) is standing with § 87(2)(b).

PO Ku's body-worn camera footage is generally consistent with that of PO Washington but captures more of the contact between Inspector Dowling and § 87(2)(b). Beginning at 3:34 minutes, § 87(2)(b) is on the end of a line of people walking backward away from officers. Beginning at 4:25 minutes, in the center left of the frame, a group of officers surrounds § 87(2)(b) on the ground. This footage does not capture Inspector Dowling and the other officers pulling § 87(2)(b) to the ground.

At 4:29 minutes, § 87(2)(b) is in a seated position on the ground on his buttocks with both of his legs outstretched in front of him. Inspector Dowling is leaning on his knees with his chest toward § 87(2)(b)'s back. Inspector Dowling reaches his right arm over § 87(2)(b)'s right shoulder, around his torso, and then up toward § 87(2)(b)'s neck while also reaching his left arm over § 87(2)(b)'s left shoulder. By 4:30 minutes, Inspector Dowling has his right forearm in front of § 87(2)(b)'s neck with his hand cupped over the left side of his neck. A screen shot captures this contact (BR 70). At the same time, Inspector Dowling reaches his left arm under § 87(2)(b)'s left armpit and hold the left side of his torso as he turns § 87(2)(b)'s upper torso to the right. By 4:33 minutes, Inspector Dowling's right arm moves away from § 87(2)(b)'s neck toward his left shoulder. A screenshot captures this (BR 71).

§ 87(2)(b)'s cell phone footage is generally consistent with PO Washington's and PO Ku's body-worn camera footage. Beginning at 00:15 seconds, § 87(2)(b) is walking backward away from officers. At 00:44 seconds, outside of the frame, Inspector Dowling pulls § 87(2)(b) away from § 87(2)(b). At 00:46 seconds, § 87(2)(b) is on the ground and his leg is extended in front of him. There are additional officers and protestors that obscure the majority of § 87(2)(b)'s body and Inspector Dowling, and specific contact between the two is not discernable.

TARU footage is generally consistent with body-worn camera footage from PO Washington and PO Ku and with § 87(2)(b)'s cell phone footage. Beginning at 00:10 seconds, § 87(2)(b) is walking backwards. Inspector Dowling approaches from the left, reaches out and grabs § 87(2)(b) by the upper body, and pulls him away from § 87(2)(b). § 87(2)(b) pulls away from Inspector Dowling toward § 87(2)(b) and § 87(2)(b). Inspector Dowling and two other officers wearing dark blue uniforms pull § 87(2)(b) down to the ground. At 00:20 seconds, Inspector Dowling is on his knees with his chest toward § 87(2)(b) leaning over § 87(2)(b)'s torso. However, § 87(2)(b)'s head and upper body are obscured by other officers. By 00:22

seconds, Inspector Dowling is leaning back on his knees and moving his upper body into an upright position. Inspector Dowling's arms are wrapped around the front of § 87(2)(b)'s body. However, only Inspector Dowling's back is visible in the frame, and it is not clear where on § 87(2)(b)'s body his arms are making contact. By 00:23 seconds, Inspector Dowling and § 87(2)(b) are no longer in the frame.

Security footage from § 87(2)(b) also captures this portion of the incident from 48:52 minutes until 49:46 minutes and is consistent with body-worn camera footage from PO Washington and PO Ku, § 87(2)(b)'s cell phone footage, and TARU footage. However, the camera is positioned at a distance from the street and does not clearly capture physical contact between Inspector Dowling, the other officers in the area, and § 87(2)(b).

Inspector Dowling (**BR 72**) stated that he arrived at West Street at Battery Place at approximately 8 p.m., and he observed approximately 750 to 1,000 protestors walking southbound on West Street. Some of the protestors were throwing water bottles at officers, and some officers were already making arrests for people being out after the curfew. Officers were giving verbal instructions for people to disperse, but many of the protestors were refusing to comply and remained in the street.

Inspector Dowling reached for § 87(2)(b) to take him into custody for being out after the curfew and grabbed § 87(2)(b)'s arm. § 87(2)(b) refused to put his arm behind his back, and, because § 87(2)(b) was muscular, Inspector Dowling reached his arm around § 87(2)(b)'s chest so he could pull § 87(2)(b) to the ground and place him into flex-cuffs. As Inspector Dowling pulled § 87(2)(b) down to the ground and into a seated position, Inspector Dowling's arm slipped up toward § 87(2)(b)'s neck area. Inspector Dowling did not recall having had any physical contact with § 87(2)(b)'s neck and noted that any contact that may have occurred was incident to this slip of his arm as he went to the ground with § 87(2)(b). As they went to the ground and as Inspector Dowling was placing § 87(2)(b) into the flex cuffs, he had his knees against § 87(2)(b)'s back as § 87(2)(b) sat upright. Inspector Dowling had no recollection of ever applying any forward pressure to § 87(2)(b)'s back, and § 87(2)(b) never complained of difficulty breathing. Inspector Dowling noted that any physical contact that he had with § 87(2)(b) only lasted a few seconds, and he denied ever using a chokehold or purposefully restricting § 87(2)(b)'s breathing. Inspector Dowling did not know who the other officers assisting him as he placed § 87(2)(b) into custody were.

Deputy Inspector Zedalis (**BR 73**), Deputy Inspector McGeown (**BR 74**), Captain Ramos (**BR 75**), Lieutenant Schmidt (**BR 76**), Lieutenant Buchanan (**BR 77**), Sgt. Nicoletti (**BR 78**), PO Ku (**BR 79**), PO Washington (**BR 80**), PO Mejia (**BR 81**), PO Muniz (**BR 82**), PO Pascale (**BR 83**), PO Conolly (**BR 84**), Det. Civil (**BR 85**), Det. Ragoo (**BR 86**), Det. Vickery (**BR 87**), and Det. Velez (**BR 88**) all provided generally consistent statements. None of the officers recalled seeing Inspector Dowling take § 87(2)(b) down to the ground, nor did they recall seeing any officers with their arms around anyone's neck area or applying forward pressure to someone's back when they were seated with their legs outstretched in front of them. All of the officers were shown video footage of the incident, but this did not refresh their memories.

Emergency Executive Order No. 118 (**BR 89**), issued by Mayor Bill DeBlasio on June 1, 2020, established a city-wide curfew from 8:00 p.m. on June 2, 2020, until 5:00 a.m. on June 3, 2020, during which time no persons or vehicles were permitted in public. Exceptions to the executive order were police officers, peace officers, firefighters, first responders and emergency medical technicians, individuals travelling to and from essential work and performing essential work, people experiencing homelessness and without access to a viable shelter, and individuals seeking medical treatment or medical supplies.

It was undisputed that § 87(2)(b) was out after curfew and that he was refusing to leave the immediate area despite repeated instructions from officers to disperse. Body-worn camera footage and TARU footage both capture § 87(2)(b) pulling away from Inspector Dowling when he first reaches for § 87(2)(b). Inspector Dowling, with other unidentified officers, then took § 87(2)(b)



§ 87(2)(b) down to the ground such that he came down on his buttocks with his legs outstretched in front of him. While Inspector Dowling was placing § 87(2)(b) into flex-cuffs, Inspector Dowling had his knees on § 87(2)(b)'s back. Although video footage captures Inspector Dowling's arm by § 87(2)(b)'s neck, § 87(2)(b) did not allege that Inspector Dowling made any contact with his neck, and Inspector Dowling had no recollection of doing this, noting that if there was contact, it was accidental and incidental to taking § 87(2)(b) to the ground. While § 87(2)(b) stated that Inspector Dowling caused him pain when he leaned forward on his back while placing him into flex-cuffs and that he "probably" he had difficulty breathing, § 87(2)(b) could not be sure that he had any difficulty breathing. § 87(2)(b) was unable to describe the officers who assisted Inspector Dowling in taking him to the ground and placing him into flex-cuffs, and Inspector Dowling did not know who these officers were.

Patrol Guide procedure 221-01 (**BR 90**) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody. In determining whether the use of force is reasonable, members of the service should consider the following: 1) The nature and severity of the crime/circumstances. 2) Actions taken by the subject. 3) Duration of the action. 4) Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders. 5) Whether the subject is actively resisting custody. 6) Whether the subject is attempting to evade arrest by flight. 7) Number of subjects in comparison to the number of MOS. 8) Size, age, and condition of the subject in comparison to the MOS. 9) Subject's violent history, if known. 10) Presence of hostile crowd or agitators. 11) Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

§ 87(2)(g) § 87(2)(b) was in violation of the Mayor's Executive Order regarding the curfew, that he was blocking traffic by remaining in the street despite repeated commands to disperse, and that he pulled away from Inspector Dowling when he first tried to place him into custody. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Although body-worn camera footage captures Inspector Dowling with his arm near § 87(2)(b)'s neck, § 87(2)(b) did not allege that Inspector Dowling made any contact with his neck, Inspector Dowling had no recollection of coming into contact with § 87(2)(b)'s neck, and contact captured is part of a fluid movement that lasts approximately one second. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

While § 87(2)(b) stated that he "probably" had difficulty breathing, he was not sure of this, noting instead that the position he was in as Inspector Dowling put him into the flex cuffs was uncomfortable. Inspector Dowling acknowledged that his knees were up against § 87(2)(b)'s back, but he had no recollection of applying forward pressure to § 87(2)(b)'s back, nor did he recall § 87(2)(b) complain of difficulty breathing. Body-worn camera footage and TARU footage capture Inspector Dowling with his chest against § 87(2)(b)'s back as he leans forward to pull § 87(2)(b)'s arms behind his back. However, this contact lasts only a few seconds and only for the duration that it takes for Inspector Dowling to get § 87(2)(b)'s hands behind his back while § 87(2)(b) is bent forward at the waist with the front of his chest, his neck, and mouth unobstructed. § 87(2)(g)

§ 87(2)(g)

**Allegation (F) Force: In front of 50 West Street in Manhattan, Police Officer Jonathan Ku struck individuals with a baton.**

**Allegation (G) Force: In front of 50 West Street in Manhattan, Police Officer Jonathan Ku struck § 87(2)(b) with a baton.**

**Allegation (H) Force: In front of 50 West Street in Manhattan, Police Officer Crystal Washington struck individuals with a baton.**

**Allegation (I) Force: In front of 50 West Street in Manhattan, Police Officer Crystal Washington struck § 87(2)(b) with a baton.**

**Allegation (J) Force: In front of 50 West Street in Manhattan, an officer used physical force against § 87(2)(b)**

**Allegation (K) Force: In front of 50 West Street in Manhattan, an officer struck § 87(2)(b) with a baton.**

It was undisputed that PO Ku, PO Washington, and other officers in the general vicinity used their batons to push people out of the roadway on West Street.

§ 87(2)(b) (BR 63 and BR 64), § 87(2)(b) (BR 65 and BR 66), § 87(2)(b) (BR 67 and BR 68), § 87(2)(b) (BR 61 and BR 62), § 87(2)(b) (BR 58), § 87(2)(b) (BR 69), and § 87(2)(b) (BR 59 and BR 60) all consistently stated that as they were walking backwards away from the officers, officers were generally pushing people who were in the street toward the sidewalk with their batons but were unable to describe specific officers. § 87(2)(b) and § 87(2)(b) did not describe officers pushing them with batons, and § 87(2)(b) did not provide a statement to the investigation.

PO Washington's body-worn camera footage (BR 31 and BR 32), between 2:40 minutes and 3:09 minutes, and PO Ku's body-worn camera footage (BR 07 and BR 08), between 4:30 minutes and 4:56 minutes, captures them pushing people in the crowd as well as § 87(2)(b) and § 87(2)(b) respectively.

In PO Washington's body-worn camera footage, beginning at 2:40 minutes, PO Washington, who is holding her baton in her right hand, tells people in the street to move to the sidewalk and to "go home," and pushes an individual wearing a black hoodie toward the sidewalk with her right hand. At approximately the same time, Inspector Dowling and the other officers are placing § 87(2)(b) into flex cuffs. At 2:44 minutes, PO Washington is holding her baton with her right hand horizontally in front of her and she pushes § 87(2)(b) left forearm with the baton while another unknown officer pushes § 87(2)(b) back away from § 87(2)(b) with his right hand on § 87(2)(b) front facing yellow backpack. By 2:53 minutes, PO Washington is holding either end of the baton with both of her hands and is pushing the bicep area of an individual wearing a denim jacket toward the sidewalk. At 2:56 minutes, PO Washington backs away from § 87(2)(b) and the other people immediately around them. By 3:09 minutes, PO Washington has passed this group of people.

PO Ku's body-worn camera footage is generally consistent with that of PO Washington. At 4:30 minutes, PO Washington is pushing back § 87(2)(b) and the individual wearing a denim jacket away from the area surrounding § 87(2)(b). At 4:37 minutes, PO Ku, who is holding his baton horizontally in his left hand, pushes § 87(2)(b) back with the baton. Beginning 4:39 minutes, PO Ku also pushes an individual next to him wearing a black hoodie in the left bicep and another individual wearing a black t-shirt with their hands in the air on the left forearm. At 4:54 minutes, a white male officer, who is holding either end of his baton with both hands horizontally in front of him, pushes § 87(2)(b) who is on the curb on the sidewalk where it meets the street, back two to three feet onto the sidewalk.

PO Washington (BR 80) stated that shortly after 8 p.m., a supervisor she could not identify instructed her and other officers to form a line and to start clearing the street. This supervisor instructed the officers to arrest individuals who did not comply. Based on training that she received in the Police Academy, PO Washington held either end of her baton with both of her hands horizontally in front of her and walked forward toward the protestors, who were walking backwards away from the officers, while giving verbal orders for people to disperse. PO Washington saw other officers making arrests as she moved forward, but she did not stop to assist.

PO Washington had no independent recollection of using her baton to push people, but having viewed her body-worn camera footage, PO Washington stated that it had not been her intent to strike anyone with her baton, and that contact that she did make was only to push people out of the street and onto the sidewalk because they were out after curfew and were blocking the roadway.

PO Washington was not able to identify any of the other officers who were pushing people toward the sidewalk.

PO Ku's statement (BR 79) was generally consistent with that of PO Washington. Shortly after 8 p.m., after receiving instructions to arrest people who refused to disperse, PO Ku formed a line with the officers around him. Some of the protestors immediately left, but others walked backwards in the street as the line of officers approached. PO Ku and the other officers were trying to "flush" the protestors out of the street by moving forward toward them while holding their batons horizontally in front of them, but PO Ku could not recall any specific contact he made to push people out of the street. PO Ku reviewed his body-worn camera footage, but still had no independent recollection of pushing people with his baton.

Inspector Dowling (BR 72), Deputy Inspector Zedalis (BR 73), Deputy Inspector McGeown (BR 74), Captain Ramos (BR 75), Lieutenant Schmidt (BR 76), Lieutenant Buchanan (BR 77), Sgt. Nicoletti (BR 78), PO Mejia (BR 81), PO Muniz (BR 82), PO Pascale (BR 83), PO Conolly (BR 84), Det. Civil (BR 85), Det. Ragoo (BR 86), Det. Vickery (BR 87), and Det. Velez (BR 88) all provided generally consistent statements. While they did recall seeing officers generally pushing people toward the sidewalks, none of the officers could recall specific instances of this, and they did not recall seeing any officers pushing § 87(2)(b) or other protestors near them toward the sidewalk. Video footage of this portion of the incident did not refresh their memories.

Emergency Executive Order No. 118 (BR 89), issued by Mayor Bill DeBlasio on June 1, 2020, established a city-wide curfew from 8:00 p.m. on June 2, 2020, until 5:00 a.m. on June 3, 2020, during which time no persons or vehicles were permitted in public. Exceptions to the executive order were police officers, peace officers, firefighters, first responders and emergency medical technicians, individuals travelling to and from essential work and performing essential work, people experiencing homelessness and without access to a viable shelter, and individuals seeing medical treatment or medical supplies.

It was undisputed that PO Washington, PO Ku, and an unidentified officer pushed § 87(2)(b) and other protestors who were out after curfew from the street toward the sidewalk and away from where Inspector Dowling and other officers were arresting § 87(2)(b) when they did not comply with verbal commands to disperse from the area.

Patrol Guide procedure 221-01 (BR 90) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody. In determining whether the use of force is reasonable, members of the service should consider the following: 1) The nature and severity of the crime/circumstances. 2) Actions taken by the subject. 3) Duration of the action. 4) Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders. 5) Whether the subject is actively resisting custody. 6) Whether the subject is attempting to evade arrest by flight. 7) Number of subjects in comparison to the number of MOS. 8) Size, age, and condition of the subject in comparison to the MOS. 9) Subject's violent history, if known. 10) Presence of hostile crowd or agitators. 11) Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

§ 87(2)(g) § 87(2)(b) and the other protestors were out after curfew, refused to disperse from the area, and were in close proximity to where Inspector Dowling and other officers were arresting § 87(2)(b) § 87(2)(g) § 87(2)(b)

**Allegation (M) Force: In front of 50 West Street in Manhattan, Deputy Inspector James McGeown used physical force against § 87(2)(b)**

**Allegation (N) Force: In front of 50 West Street in Manhattan, Police Officer Michael Pascale**

used physical force against § 87(2)(b)

**Allegation (Q) Force: In front of 50 West Street in Manhattan, Deputy Inspector Ronald Zedalis used physical force against § 87(2)(b)**

**Allegation (R) Force: In front of 50 West Street in Manhattan, Police Officer Adam Muniz used physical force against § 87(2)(b)**

**Allegation (S) Force: In front of 50 West Street in Manhattan, Police Officer Eduardo Mejia used physical force against an individual.**

**Allegation (T) Force: In front of 50 West Street in Manhattan, officers used physical force against § 87(2)(b)**

**Allegation (U) Force: In front of 50 West Street in Manhattan, Police Officer Jonathan Ku used physical force against § 87(2)(b)**

It was undisputed that Deputy Inspector McGeown took § 87(2)(b) down to the ground, that PO Pascale assisted in placing § 87(2)(b) into flex cuffs, that Deputy Inspector Zedalis took § 87(2)(b) to the ground, that PO Muniz assisted in placing § 87(2)(b) into flex cuffs, that PO Mejia pushed an individual out of the area, and that PO Ku and other unidentified officers took § 87(2)(b) to the ground and placed him into flex cuffs. The manner by which § 87(2)(b) was taken into custody is disputed.

§ 87(2)(b) (BR 61 and BR 62) consistently stated that after Inspector Dowling and the other officers pulled § 87(2)(b) away from their line of protestors, he approached § 87(2)(b) to see if he was okay. § 87(2)(b) pushed § 87(2)(b) away from § 87(2)(b) toward the sidewalk. As he was walking to the sidewalk, § 87(2)(b) turned his head to look at § 87(2)(b) who was still in the street, at which time he saw a baton hit the left side of § 87(2)(b) face by the temple. § 87(2)(b) only saw the baton, and he did not see the officer who was holding it (see allegation L below). Almost immediately, Deputy Inspector McGeown grabbed § 87(2)(b) backpack, pulled them further into the street, and approximately four officers, some wearing white shirts and some wearing dark uniforms, pulled § 87(2)(b) down by their upper body to the ground such that § 87(2)(b) was lying face-down.

§ 87(2)(b) who was already on the sidewalk, pulled § 87(2)(b) onto the sidewalk next to him. § 87(2)(b) saw approximately four officers surrounding § 87(2)(b) but he could not see what they were doing. On the sidewalk, § 87(2)(b) saw someone from Legal and approached them to see what next steps he should take, and he did not see officers take anyone else from that immediate area into custody.

§ 87(2)(b)'s statement (BR 63 and BR 64) was generally consistent with that of § 87(2)(b) with the following exceptions noted. § 87(2)(b) explained that as soon as officers started to approach them, they went into a "calm state" because they did not want to have a panic attack and had no further recollection of how they were taken to the ground.

§ 87(2)(b)'s statement (BR 65 and BR 66) was generally consistent with those of § 87(2)(b) and § 87(2)(b) with the following exceptions noted. § 87(2)(b) was on the sidewalk on the east side of the street filming the incident with his cell phone when he saw officers take § 87(2)(b) and § 87(2)(b) down to the ground in quick succession. The process was the same for each: officers approached, put their hands behind their backs, and then took them face down to the ground. § 87(2)(b) could not recall any specifics to differentiate the takedowns.

§ 87(2)(b)'s statement (BR 59 and BR 60) was generally consistent with those of § 87(2)(b) and § 87(2)(b) with the following exceptions noted. After officers took § 87(2)(b) into custody, the line § 87(2)(b) had been a part of dissolved, and § 87(2)(b) was standing in the street alone holding his hands above his head. Approximately three officers all wearing dark uniforms, including PO Ku, approached § 87(2)(b) and took him to the ground. However, § 87(2)(b) could not recall how this happened because it occurred so quickly and it was a stressful situation. Once he was on the ground, officers put § 87(2)(b)'s hands behind his back and placed him into flex-cuffs. § 87(2)(b) heard § 87(2)(b) yell out, § 87(2)(b) for § 87(2)(b).

§ 87(2)(b) but he did not see officer take § 87(2)(b) to the ground.

§ 87(2)(b) (BR 58) and § 87(2)(b) (BR 69) both stated that they did not witness this portion of the incident because officers were taking them into custody at that time, and they only saw the other individuals once they were in custody.

§ 87(2)(b) (BR 67 and BR 68) stated that he was on the sidewalk and only saw § 87(2)(b) on the ground surrounded by officers. He did not witness how officers took § 87(2)(b) to the ground, nor did he have a clear view of what was happening in the street.

§ 87(2)(b) did not provide the investigation with a statement.

Body-worn camera footage from PO Ku (BR 07 and BR 08) from 4:45 minutes to 5:56 minutes, PO Pascale (BR 21 and BR 22) from 00:46 seconds to 1:32 minutes, PO Muniz (BR 23 and BR 24) from 3:40 minutes to 4:22 minutes, and PO Mejia (BR 29 and BR 30) from 1:56 minutes to 2:13 minutes, cell phone footage from § 87(2)(b) (BR 48 and BR 49) from 1:08 minutes to 1:40 minutes, and TARU Footage (BR 46 and BR 47) from 00:43 seconds to 1:08 minutes, capture portions of this incident.

In PO Ku's body-worn camera footage, beginning at 4:45 minutes, § 87(2)(b) is walking backwards on the east side of the street next to the curb. At 4:53 minutes, § 87(2)(b) slows their pace next to § 87(2)(b) and § 87(2)(b) who are on the sidewalk. § 87(2)(b) reaches their arms toward § 87(2)(b) as Deputy Inspector McGeown approaches § 87(2)(b) from behind, wraps his right arm under § 87(2)(b) right arm and around his torso and turns § 87(2)(b) around to their left. Deputy Inspector McGeown wraps his left arm over § 87(2)(b) left arm by the bicep, turns them again to the left, brings § 87(2)(b) down first on their left knee and then all the way down to the ground such that they are face-down on the ground. Once § 87(2)(b) is on the ground, Deputy Inspector McGeown steps back while PO Pascale places them into flex cuffs.

At 4:57 minutes, Deputy Inspector Zedalis takes § 87(2)(b) who is approximately five feet behind § 87(2)(b) by the left shoulder and forearm and pulls him down to the ground first to his knees and then face-down on the ground. By 4:58 minutes, § 87(2)(b) and § 87(2)(b) are both on face-down on the ground next to each other, with Deputy Inspector McGeown and PO Pascale on the left with § 87(2)(b) and Deputy Inspector Zedalis and PO Muniz to the right with § 87(2)(b). An unidentified white male wearing a white long-sleeved shirt stands over the group of officers.

Beginning at 5:07 minutes, PO Ku approaches § 87(2)(b) who is walking backward in the street with his hands above his head. An officer wearing a dark blue uniform approaches § 87(2)(b) as another officer wearing a white short sleeved shirt takes § 87(2)(b)'s right forearm. These two officers pull § 87(2)(b) down to the ground on the left side of his buttocks. At 5:10 minutes, PO Ku leans down toward § 87(2)(b) and turns him so that he is face-down on the ground with the assistance of the officer in the dark blue uniform. That officer places his hand on § 87(2)(b)'s backpack while PO Ku puts § 87(2)(b) into flex cuffs. At 5:37 minutes, the other officer removes his hand from § 87(2)(b)'s backpack and stands up after returning PO Ku's baton to him. At 5:56 minutes, PO Ku lifts § 87(2)(b) into a standing position.

PO Pascale's body-worn camera footage is consistent with that of PO Ku. Beginning at 00:46 seconds, Deputy Inspector McGeown approaches § 87(2)(b) from behind and takes them to the ground. At approximately the same time, Deputy Inspector Zedalis and other officers grab § 87(2)(b) by the upper body and pull him to the ground. By 00:51 seconds, § 87(2)(b) and § 87(2)(b) are both on the ground. PO Pascale bends down to § 87(2)(b) and places § 87(2)(b) into flex-cuffs. At 00:55 seconds, PO Muniz helps Deputy Inspector Zedalis with § 87(2)(b)'s flex-cuffs.

PO Muniz's body-worn camera footage is consistent with those of PO Ku and PO Pascale. Beginning at 3:40 minutes, Deputy Inspector McGeown reaches for § 87(2)(b) and pulls them to the ground outside of the frame. At 3:45 minutes, Deputy Inspector Zedalis pulls § 87(2)(b) to the ground, and PO Muniz places his hand on § 87(2)(b)'s backpack, pushing

him toward the ground.

PO Mejia's body-worn camera footage, beginning at 1:56 minutes, was consistent with those of PO Ku, PO Pascale, and PO Muniz. At 2:04 minutes, PO Mejia pushes a protestor wearing a black sweatshirt who is standing behind the group of officers surrounding § 87(2)(b) and § 87(2)(b) away from the officers. At 2:06 minutes, an officer in dark blue pushes § 87(2)(b)'s back with his right hand. § 87(2)(b) takes two to three steps and then remains in the street. At 2:13 minutes, PO Ku and other officers approach § 87(2)(b) and pull him to the ground.

In § 87(2)(b)'s cell phone video, beginning at 1:08 minutes, § 87(2)(b) is visible near the top of the frame walking backward. At 1:20 minutes, an officer wearing a dark blue uniform pushes § 87(2)(b)'s left shoulder, and § 87(2)(b) takes a few steps back, but then remains stationary as that officer approaches him again. At 1:29 minutes, § 87(2)(b) in the ground in the fetal position on his right side with PO Ku by his legs and the other officer in a dark blue uniform by his head with his hand on § 87(2)(b)'s backpack. PO Ku then places § 87(2)(b) into flex-cuffs.

TARU footage, between 00:43 seconds and 1:09 minutes, was consistent with body-worn camera footage from PO Ku, PO Pascale, PO Muniz, and PO Mejia, and the cell phone footage from § 87(2)(b).

Deputy Inspector McGeown (**BR 74**) stated that he only had a vague recollection of the incident because it was a chaotic and rapidly evolving situation and that it was very similar to protests, he could not recall how many, that he had continuously been responding to since the end of May 2020. Shortly after 8 p.m., at West Street at Battery Place, Deputy Inspector McGeown saw a large crowd of people, he could not estimate how many, in the street blocking traffic. Some people were leaving the area, but some were only walking slowly away from officers, and others were refusing to leave altogether. Officers were already arresting people who were refusing to leave and other protestors were trying to "interfere" with arrests, but Deputy Inspector McGeown could not describe how they were doing this.

Deputy Inspector McGeown walked northbound on West Street as other officers affected arrests, but he could not recall how far he walked or any specific arrests that he observed. Deputy Inspector McGeown noted that he may have initiated arrests and assisted other officers with their arrests, but he had no independent recollection of doing so.

Deputy Inspector McGeown viewed body-worn camera footage from PO Ku, which captured Deputy Inspector McGeown taking § 87(2)(b) to the ground, but he had no independent recollection of having done this and having viewed the video, could not recall why he approached § 87(2)(b) or why he took them to the ground. Deputy Inspector McGeown had no recollection of ever observing § 87(2)(b) at the time of the incident, nor did he recall observing officers take anyone else into custody at approximately the same time. Deputy Inspector McGeown did not think that he was equipped with a baton at the time of this incident, and he did not recall seeing any officers strike or push anyone with their batons.

PO Pascale (**BR 83**) stated that when he arrived at the protest, he joined a line of SRG officers who were lined up at the bottom of West Street at Battery Place that was walking northbound toward the protestors while giving instructions for them to disperse. As he was walking, he observed supervising officers, he was not sure who, starting to take protestors into custody. PO Pascale had not heard any instructions to arrest people, so he continued to walk northbound toward the protestors. As he walked, PO Pascale saw Deputy Inspector McGeown, who was approximately 50 feet in front of him, grab § 87(2)(b) from behind by the biceps and then "guide" § 87(2)(b) toward the ground such that they were face-down on the ground with their hands behind their back. As soon as PO Pascale saw Deputy Inspector McGeown grab § 87(2)(b) PO Pascale approached to assist, arriving at § 87(2)(b) when they were already on the ground. PO Pascale positioned himself to § 87(2)(b) left, removed his flex-cuffs, and put them on § 87(2)(b) wrists. § 87(2)(b) did not resist, and, once they were in the flex-cuffs, PO Pascale lifted then up

into a standing position by lifting them by the arms.

Deputy Inspector Zedalis' statement (**BR 73**) was generally consistent with those of Deputy Inspector McGeown and PO Pascale. When he arrived at the West Street at Battery Place, a little before 8 p.m., Deputy Inspector Zedalis saw a large crowd of approximately 1,000 protestors marching southbound on West Street toward Battery Place. Deputy Inspector Zedalis exited his car at Battery Place and observed the protestors until shortly after 8 p.m., at which time the curfew started. Deputy Inspector Zedalis did not recall hearing any announcements informing the protestors that the officers were going to start enforcing the curfew, but he saw officers push people out of the street and make arrests. Deputy Inspector Zedalis walked northbound on West Street behind the protestors and recalled assisting a few officers with their arrests, but he could not recall any of the details of these arrests, such as which officers he assisted, how he physically assisted, or descriptions of the people he helped arrest. Deputy Inspector Zedalis viewed body-worn camera footage of this portion of the incident, but this did not refresh his memory of assisting PO Muniz with arresting § 87(2)(b). Deputy Inspector Zedalis had no recollection of ever seeing Deputy Inspector McGeown take § 87(2)(b) to the ground nor did he recall other officers in the vicinity taking people into custody.

PO Muniz's statement (**BR 82**) was generally consistent with those of PO Pascale, Deputy Inspector McGeown, and Deputy Inspector Zedalis. At approximately 8 p.m., an unknown supervisor instructed PO Muniz and other SRG officers with him to form a line at the base of West Street at Battery Place opposite the protestors. Once the line was formed, PO Muniz and the other officers walked northbound toward the protestors while verbally giving commands for people to disperse from the area. As PO Muniz was walking northbound, he saw Deputy Inspector Zedalis fall to the ground while trying to take § 87(2)(b) into custody. PO Muniz approached to assist, and, when he got there, § 87(2)(b) was face-down on the ground and Deputy Inspector was above him and had one of § 87(2)(b)'s hands restrained behind his back. PO Muniz took § 87(2)(b)'s other hand and put him into flex-cuffs. § 87(2)(b) did not resist, and, once he was restrained, PO Muniz lifted § 87(2)(b) up by his arms into a standing position.

PO Muniz did not recall seeing Deputy Inspector McGeown take § 87(2)(b) to the ground, nor did he recall seeing PO Ku take § 87(2)(b) to the ground. Video of the incident did not further refresh his memory.

PO Mejia's statement (**BR 81**) was also consistent with those of PO Pascale, PO Muniz, Deputy Inspector McGeown, and Deputy Inspector Zedalis. As he was walking northbound on West Street, PO Mejia saw Deputy Inspector McGeown and Deputy Inspector Zedalis trying to place § 87(2)(b) and § 87(2)(b) into custody. PO Mejia approached to assist and saw a female individual approaching within approximately one foot of Deputy Inspector McGeown, Deputy Inspector Zedalis, PO Pascale, PO Muniz, § 87(2)(b) and § 87(2)(b). PO Mejia thought that this individual was going to try to interfere, and he was concerned for the officers' safety because Deputy Inspector McGeown and Deputy Inspector Zedalis both had their backs to her, so PO Mejia pushed her back away from the officers toward the sidewalk. Having cleared the individual from the immediate area, PO Mejia stood at the perimeter of the officers who were restraining § 87(2)(b) and § 87(2)(b) to keep them safe and ensure that no one else interfered. PO Mejia did not recall seeing officers take § 87(2)(b) into custody, and video of this portion of the incident did not refresh his recollection.

PO Ku's statement (**BR 79**) was also consistent with those of PO Pascale, PO Muniz, PO Mejia, Deputy Inspector McGeown, and Deputy Inspector Zedalis. PO Ku did not have a very clear recollection of assisting with § 87(2)(b)'s arrest, but he thought that § 87(2)(b) had tripped and fallen to the ground and denied forcibly pulling him to the ground and did not recall seeing any other officers do this. Once § 87(2)(b) was on the ground, PO Ku assisted other officers, he was not sure who, put § 87(2)(b) into flex-cuffs. PO Ku did not recall seeing officers take § 87(2)(b) or § 87(2)(b) into custody, and video of the incident did not refresh his recollection.

Inspector Dowling (BR 72), Captain Ramos (BR 75), Lieutenant Schmidt (BR 76), Lieutenant Buchanan (BR 77), Sgt. Nicoletti (BR 78), PO Washington (BR 80), PO Conolly (BR 84), Det. Civil (BR 85), Det. Ragoo (BR 86), Det. Vickery (BR 87), and Det. Velez (BR 88), all provided generally consistent statements. While they did recall seeing officers generally affecting arrests, they did not recall seeing officers take § 87(2)(b) and § 87(2)(b) down to the ground and restrain them with flex-cuffs. Video footage of the incident did not refresh their memories.

§ 87(2)(b) (BR 01), § 87(2)(b) (BR 05), and § 87(2)(b) (BR 02 and BR 03) received summonses for violating the curfew. § 87(2)(b) received a second summons for standing in a public roadway.

Emergency Executive Order No. 118 (BR 89), issued by Mayor Bill DeBlasio on June 1, 2020, established a city-wide curfew from 8:00 p.m. on June 2, 2020, until 5:00 a.m. on June 3, 2020, during which time no persons or vehicles were permitted in public. Exceptions to the executive order were police officers, peace officers, firefighters, first responders and emergency medical technicians, individuals travelling to and from essential work and performing essential work, people experiencing homelessness and without access to a viable shelter, and individuals seeking medical treatment or medical supplies.

Patrol Guide procedure 221-01 (BR 90) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody. In determining whether the use of force is reasonable, members of the service should consider the following: 1) The nature and severity of the crime/circumstances. 2) Actions taken by the subject. 3) Duration of the action. 4) Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders. 5) Whether the subject is actively resisting custody. 6) Whether the subject is attempting to evade arrest by flight. 7) Number of subjects in comparison to the number of MOS. 8) Size, age, and condition of the subject in comparison to the MOS. 9) Subject's violent history, if known. 10) Presence of hostile crowd or agitators. 11) Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

It was undisputed that § 87(2)(b) and the other protestors were all out after curfew and had refused to disperse from the area despite repeated instructions to do so. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (O) Discourtesy: In front of 50 West Street in Manhattan, an officer spoke discourteously to an individual.**

**Allegation (P) Offensive Language: In front of 50 West Street in Manhattan, an officer made remarks to an individual based upon gender.**

**Allegation (Y) Discourtesy: At Brooklyn Central Booking, Police Officer Patrick Connolly acted discourteously toward § 87(2)(b)**

§ 87(2)(b) (BR 63 and BR 64) stated that after they were placed in flex-cuffs, they heard an officer they could not describe say, "Get that bitch with the blue hair. She's next."

§ 87(2)(b) also stated that when they were at Brooklyn Central Booking, § 87(2)(b) asked their arresting officer, PO Connolly, for water. PO Connolly then brought § 87(2)(b) a cup of water with only one drop of water in it. When § 87(2)(b) asked for additional water, PO Connolly refused and told § 87(2)(b) that he did not want to have to take them to the bathroom again.



§ 87(2)(b) (BR 58), § 87(2)(b) (BR 61 and BR 62), § 87(2)(b) (BR 59 and BR 60), § 87(2)(b) (BR 65 and BR 66), § 87(2)(b) (BR 69), and § 87(2)(b) (BR 67 and BR 68) did not hear any officers make say, “Get that bitch with the blue hair. She’s next!” nor did any of them witness any interaction between § 87(2)(b) and PO Connolly at Brooklyn Central Booking. No officers were captured making such a statement on any video footage obtained by the investigation, nor was PO Connolly captured on body-worn camera footage at Brooklyn Central Booking providing § 87(2)(b) with a drop of water, refusing to provide them more, or stating that he did not want to take § 87(2)(b) to go to the bathroom.

Although § 87(2)(b) provided two, brief phone statements to the investigation, they did not follow-through with providing a verified statement despite repeated contact attempts.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (A) Force: In front of 50 West Street in Manhattan, an officer struck § 87(2)(b) with a baton.**

**Allegation (L) Force: In front of 50 West Street in Manhattan, an officer struck § 87(2)(b) with a baton.**

**Allegation (V) Force: In front of 50 West Street in Manhattan, an officer used physical force against § 87(2)(b)**

**Allegation (W) Force: In front of 50 West Street in Manhattan, an officer struck § 87(2)(b) with a baton.**

**Allegation (X) Discourtesy: In front of 50 West Street in Manhattan, an officer spoke discourteously to individuals.**

#### **Known facts and general descriptions:**

##### **Allegation (A):**

§ 87(2)(b) stated that as he was walking backward in the line while holding hands with § 87(2)(b) an officer approached them, raised their baton, and brought it down on top of § 87(2)(b)'s left forearm. The baton did not strike § 87(2)(b) directly, but the force indirectly caused § 87(2)(b) to let go of § 87(2)(b)'s arm. § 87(2)(b) did not allege that an officer struck him in the arm with his baton, nor did anyone else witness this occur.

##### **Allegation (L):**

§ 87(2)(b) stated that as Deputy Inspector McGeown reached for § 87(2)(b) and took them to the ground, he saw a baton strike the left side of § 87(2)(b) head by the temple. § 87(2)(b) only saw the baton strike § 87(2)(b) as they went to the ground, and he did not see who was holding the baton. § 87(2)(b) had no independent recollection of being hit on the head with a baton, nor did they believe, at the time, that they had sustained any injury to their head. However, the day after the incident, § 87(2)(b) felt disoriented and went to an emergency room, where a doctor told them that they had likely sustained a mild concussion. Besides § 87(2)(b) no one witnessed an officer strike § 87(2)(b) in the head with a baton. § 87(2)(b) declined to provide the investigation with medical documentation of their injuries.

### **Allegations (V) and (W):**

§ 87(2)(b) stated that he was standing on the sidewalk filming with his cell phone as officers took down § 87(2)(b) and then § 87(2)(b) and § 87(2)(b). Once they had all been restrained, two officers approached § 87(2)(b) and one of them yelled, “Get back!” One of the officers, a white male, approximately 5’8” to 5’9” tall, 150 pounds, in his mid-30s to early-40s wearing a dark blue uniform, a face shield, and light blue facemask, who was holding his baton horizontally across his chest with one hand on either end, pushed § 87(2)(b) back further onto the sidewalk approximately five to six feet. The push occurred when § 87(2)(b) and the officer were face-to-face, but § 87(2)(b) could not recall where on his body the baton made contact.

§ 87(2)(b) stumbled slightly but did not fall to the ground, and he turned away from the officer as he continued to walk away from the street. Once § 87(2)(b)’s back was turned, he felt pressure in the middle of his back, which felt like an officer pushing him with a baton. This was followed quickly by a swift baton strike to § 87(2)(b) Derick’s right back hip by his kidney. § 87(2)(b) felt an immediate and intense pain and sustained a bruise approximately six inches long by one inch wide. § 87(2)(b) was unable to describe the officer who did this because his back was turned at the time and there were numerous officers in the area.

There were no witnesses to this contact.

### **Allegation (X):**

§ 87(2)(b) stated that after he had been placed into flex-cuffs, officers led him to the curb where he sat while he waited for a transportation vehicle. While he was waiting, he heard a heavyset white male officer, taller than 5’10”, wearing a uniform with a white shirt who was in his 40s or 50s say to other officers in the area, “Get your fucking bodies and get them on the truck now!”

There were no other witnesses to this statement.

### **BWC and Other Video Footage**

**Allegations A and X** were not captured on any received video footage.

### **Allegation (L):**

Body-worn camera footage from PO Ku (**BR 07** and **BR 08**) and TARU footage (**BR 46** and **BR 47**) capture this portion of the incident. As noted above, in PO Ku’s body-worn camera footage, at 4:54 minutes, Deputy Inspector McGeown approaches § 87(2)(b) from behind, wraps his right arm under § 87(2)(b) right arm and around his torso and turns § 87(2)(b) around to their left. Deputy Inspector McGeown wraps his left arm over § 87(2)(b) left arm by the bicep, turns them again to the left, brings § 87(2)(b) down first on their left knee and then all the way down to the ground such that they are face-down on the ground. In the TARU footage, at 00:43 seconds, Deputy Inspector McGeown approaches § 87(2)(b) who is in the street by the sidewalk where § 87(2)(b) and § 87(2)(b) are standing. At 00:47 seconds, Deputy Inspector McGeown turns § 87(2)(b) to their left, wraps his arms around their torso, and pulls them to the ground.

Neither of these videos captures an officer strike § 87(2)(b) in the head with a baton; however, not every angle of § 87(2)(b) head is visible in the footage.

### **Allegations (V) and (W):**

§ 87(2)(b) was filming with his cell phone at the time these allegations occurred (**BR 48** and **BR 49**), however neither the push nor the baton strike was captured. There was no other video that captured § 87(2)(b) on the sidewalk.

### **NYPD Documents Reviewed:**

The investigation obtained desk/unit copies of roll call and detail rosters for the following

commands: The 1<sup>st</sup> Precinct (**BR 103**), the 40<sup>th</sup> Precinct (**BR 104**), the 43<sup>rd</sup> Precinct (**BR 105**), the 44<sup>th</sup> Precinct (**BR 106**), SRG 1 (**BR 107, BR 108, and BR 109**), SRG 2 (**BR 110**), SRG 3 (**BR 111**), SRG 4 (**BR 112, BR 113, and BR 114**), SRG 5 (**BR 115**), SRG (**BR 116**), Patrol Borough Manhattan South (**BR 117**), Vice Enforcement Zone 1 (**BR 118**), Vice Enforcement Zone 2 (**BR 119**), TARU (**BR 120**), the Legal Bureau (**BR 121, BR 122, BR 123, BR 124, BR 125, BR 126, BR 127, BR 128, and BR 129**), and Gun Violence Suppression Zone 1 (**BR 130**).

TRI requests yielded negative results (**BR 131 and BR 132**).

The Mass Arrest Report (**BR 133**) did not provide additional officer identifications.

Because of incomplete descriptions of the officers involved in these allegations and a lack of additional police documentation of the protest, the investigation was unable to narrow down the subject officers based on Roll Calls, Detail Rosters, or TRI reports.

### **Concurrent investigations:**

A concurrent investigation into the allegations against § 87(2)(b) was conducted by Lieutenant Leor Reichman from the NYPD's Chief of Special Operations under case § 87(2)(g) (**BR 134**). The case file shows that Lieutenant Reichman obtained interview statements from § 87(2)(b) and § 87(2)(b) (these were conducted via Zoom and were not recorded), the summaries of which were consistent with their CCRB statements. Lieutenant Reichman reviewed media articles, § 87(2)(b) body-worn camera footage from PO Pascale and PO Ku, PO Pascale's memo book, and arrest documentation from the incident. Lieutenant Reichman listed PO Pascale as the subject officer and unfounded allegations of force against him, noting that "no force was used by Officer Pascale or any other MOS just prior to and during the arrest of § 87(2)(b)". All MOS involved used proper arrest techniques and were professional and respectful during the entire interaction with § 87(2)(b).

There are approximately 10 CCRB investigations into the protest at this incident location. Additionally, multiple Non-Governmental Organizations (NGOs), along with the NYC Department of Investigations (DOI), and the New York State Attorney General (OAG) have released public reports analyzing the NYPD's response to the protest at this incident location.

### **Ranking officers:**

The highest-ranking officer present for this incident was Inspector Dowling. Also present were Inspector Michele Irizarry of Patrol Borough Manhattan South, Deputy Inspector McGeown, and Deputy Inspector Zedalis.

### **Officers Interviewed:**

#### **Allegation (A):**

Inspector Dowling, Deputy Inspector Zedalis, Deputy Inspector McGeown, Captain Ramos, Lieutenant Buchanan, Lieutenant Schmidt, Sgt. Nicoletti, Det. Civil, Det. Velez, Det. Vickery, Det. Ragoo, PO Washington, PO Pascale, PO Muniz, PO Mejia, PO Ku, and PO Connolly all denied striking § 87(2)(b) with their batons and did not recall seeing any other officers do so.

#### **Allegation (L):**

Inspector Dowling, Deputy Inspector Zedalis, Deputy Inspector McGeown, Captain Ramos, Lieutenant Buchanan, Lieutenant Schmidt, Sgt. Nicoletti, Det. Civil, Det. Velez, Det. Vickery, Det. Ragoo, PO Washington, PO Pascale, PO Muniz, PO Mejia, PO Ku, and PO Connolly all denied striking § 87(2)(b) with their batons and did not recall seeing any other officers do so.

Deputy Inspector McGeown noted that he was not carrying his baton at the time of the incident and he and PO Pascale consistently stated that they did not observe any injuries to § 87(2)(b) head. PO Connolly, the officer who processed § 87(2)(b) at Brooklyn Central Booking (**BR 84**) added that while § 87(2)(b) advocated for other individuals to receive

medical attention, they did not request any medical attention for themselves, did not appear to have any visible injuries, and did not complain of any pain to their head

**Allegations (V) and (W):**

Inspector Dowling, Deputy Inspector Zedalis, Deputy Inspector McGeown, Captain Ramos, Lieutenant Buchanan, Lieutenant Schmidt, Sgt. Nicoletti, Det. Civil, Det. Velez, Det. Vickery, Det. Ragoo, PO Washington, PO Pascale, PO Muniz, PO Mejia, PO Ku, and PO Connolly all denied pushing or striking § 87(2)(b) with their baton and did not recall seeing any other officers do so.

**Allegation (X):**

Inspector Dowling, Deputy Inspector Zedalis, Deputy Inspector McGeown, Captain Ramos, Lieutenant Buchanan, Lieutenant Schmidt, Sgt. Nicoletti, Det. Civil, Det. Velez, Det. Vickery, Det. Ragoo, PO Washington, PO Pascale, PO Muniz, PO Mejia, PO Ku, and PO Connolly all denied ever saying “Get your fucking bodies and put them on the truck now!” and denied ever using profanity during the incident. None of the officers recalled hearing any officers make that statement.

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 91**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 92**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 93**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 94**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 95**).
- PO Connolly was a member of service for 21 years and had been a subject in three CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g) PO Connolly retired on June 1, 2021 (**BR 96**).
- Inspector Dowling has been a member of service for 26 years and has been a subject in two CCRB complaints and two allegations, neither of which were substantiated. § 87(2)(g)
- Deputy Inspector Zedalis has been a member of service for 21 years and has been a subject in two CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)
- PO Washington has been a member of service for two years, and this is the first CCRB complaint to which she has been a subject.
- PO Mejia has been a member of service for five years, and this is the first CCRB complaint to which he has been a subject.
- PO Muniz has been a member of service for eight years and has been a subject in three CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)
- PO Ku has been a member of service for nine years and has been a subject in four CCRB complaints and seven allegations, three of which were substantiated.

- 201303423 involved substantiated allegations of a refusal to provide a name/shield number and a discourtesy. The Board recommended Command Discipline, and the NYPD imposed Command Discipline A.
- 201405139 involved a substantiated allegation of a threat to notify ACS. The Board recommended Command Discipline A, and the NYPD imposed Command Discipline A.
- Deputy Inspector McGeown has been a member of service for 35 years and has been a subject in four CCRB complaints and nine allegations, none of which have been substantiated. § 87(2)(g)

[REDACTED]

### Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of August 12, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**BR 97**).

- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Squad: 10

Investigator: Maura R. Roche SI Maura R. Roche 02/24/2022  
Signature Print Title & Name Date

Squad Leader: Eric Rigie IM Eric Rigie 2/25/2022  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date